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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,300	02/06/2004	Soren M. Hansen	606-60-PA	5448
22145 7590 10/19/2007 KLEIN, O'NEILL & SINGH, LLP 43 CORPORATE PARK SUITE 204 IRVINE, CA 92606			EXAMINER PARSLEY, DAVID J	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 10/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/774,300	HANSEN, SOREN M.	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 9-6-07 and this action is final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 4,916,775 to Gallant in view of U.S. Patent No. 6,099,400 to Ragnarsson et al and in view of U.S. Patent No. 4,111,798 to Peterson et al.

Referring to claim 1, Gallant discloses a method of separating meat from the shells of shellfish, comprising the following steps, steam boiling the shellfish at a high pressure exceeding the atmospheric pressure for a specific period of time for keeping the meat of the shellfish in a compressed state due to the pressurization, while rapidly heating the shrimps to the elevated temperature for causing the meat of the shrimps to solidify and to loosen from the shells of the shellfish – see for example at 24 in figure 1 and column 2 lines 33-45, cooling the shellfish – see

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at 25 in figure 1, peeling the shrimps by mechanically opening the shells of the shellfish for allowing the meat loosely contained within the shells of the shellfish to fall out from the shells of the shellfish – see at 26 and column 2 lines 45-55, separating the meat of the shellfish from the shell parts and other parts of the shellfish, by flotation separation of the meat from the shell parts and other parts by introducing the meat with the shell parts and other parts attached thereto into a brine solution – at 29, including an amount of salt – at 30, for causing the meat to float on the brine solution while allowing the shell parts and other parts to sink – see at 29 in figure 1 and column 2 lines 61-68 and column 4 lines 42-68 and column 5 lines 1-45. Gallant does not disclose the device is used on shrimp having eggs attached. However, it is deemed that the device of Gallant is capable of operating on other shellfish such as shrimp with eggs since as seen in figure 1 the device of Gallant is capable of being used on shellfish of the size of shrimp and the eggs of the shrimp are capable of being removed from the meat of the shellfish and thus removed through the pipe at the bottom of item 29 with the shells. Gallant further does not disclose rapidly cooling the shellfish to a temperature at or below the atmospheric temperature for causing substantially all meat of the shellfish to be separated from the shells of the shellfish between an area behind the head of the individual shellfish and a part above the tail of the individual shellfish. Ragnarsson et al. does disclose rapidly cooling the shrimps to a temperature at or below the atmospheric temperature for causing substantially all meat of the shrimps to be separated from the shells of the shrimps between an area behind the head of the individual shrimp and a part above the tail of the individual shrimp – see at 2,11 and 12 and for example column 1 lines 34-67 and column 2 lines 1-67. Therefore it would have been obvious to one of ordinary skill in the art to take the process of Gallant and add the rapidly cooling step of

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Ragnarsson et al., so as to allow for the shellfish to be more easily and quickly removed from the shell during the peeling step. Gallant further discloses the amount of salt in the brine solution is controlled – via item 30. Gallant further does not disclose the brine solution has NaCl at 6-14% by weight. Peterson et al. does disclose a material separation device which can be used in the fishing/shellfish industry – see column 12 lines 51-55, using a brine solution using NaCl at 11% by weight – see column 15 lines 1-7. Therefore it would have been obvious to one of ordinary skill in the art to take the process of Gallant and add the brine solution having between 6 and 14% by weight NaCl of Peterson et al., so as to allow for the meat to be separated from the shells quickly and accurately during use.

Referring to claim 5, Gallant as modified by Ragnarsson et al. and Peterson et al. further discloses the temperature in the cooling step being in the range of 0-20°C – see for example column 2 lines 47-60 of Ragnarsson et al.

Referring to claim 6, Gallant as modified by Ragnarsson et al. and Peterson et al. further discloses the boiling being performed in a pressurized boiler in a continuous operation – see for example column 2 lines 21-47 of Ragnarsson et al.

Referring to claim 7, Gallant as modified by Ragnarsson et al. and Peterson et al. further discloses the boiling being performed in a pressurized boiler in an intermittent batch operation – see at 22-24 in figure 1 of Gallant where the intermittent batch is being produced by the hopper – at 22.

Referring to claim 10, Gallant as modified by Ragnarsson et al. and Peterson et al. further discloses forcedly introducing the peeled shrimps into the separation liquid along with the shell

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parts and any eggs – see for example – at 28 and 29 in figure 1 and column 4 lines 42-68 and column 5 lines 1-45 of Gallant.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallant as modified by Ragnarsson et al. and Peterson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,112,269 to Petersen et al.

Referring to claim 2, Gallant as modified by Ragnarsson et al. and Peterson et al. does not disclose the pressure being in the range of 4-20 bar. Petersen et al. does disclose the pressure being in the range of 4-20 bar – see for example column 2 lines 3-11. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Gallant as modified by Ragnarsson et al. and Peterson et al. and add the pressure being between 4-20 bar of Petersen et al., so as to effect quick separation of the shellfish meat from the shellfish shell.

Referring to claim 3, Gallant as modified by Ragnarsson et al. and Peterson et al. does not disclose the temperature being in the range of 150-250 °C. Petersen et al. does disclose the temperature being in the range of 150-250°C – see for example column 2 lines 3-11. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Gallant as modified by Ragnarsson et al. and Peterson et al. and add the temperature being between 150-250 °C of Petersen et al., so as to effect quick separation of the shellfish meat from the shellfish shell.

Referring to claim 4, Gallant as modified by Ragnarsson et al. and Peterson et al. does not disclose the time being less than 20 seconds. Petersen et al. does disclose the specific period of time for the heating and pressurizing step being less than 20 seconds – see for example column 2 lines 4-11 and column 3 lines 47-65. Therefore it would have been obvious to one of

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ordinary skill in the art to take the process of Gallant as modified by Ragnarsson et al. and Peterson et al. and add the time being less than 20 seconds of Petersen et al., so as to allow for a larger amount of shellfish to be processed by the device of the process.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gallant as modified by Ragnarsson et al. and Peterson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 3,818,818 to Hice. Gallant as modified by Ragnarsson et al. and Peterson et al. does not disclose the cooling is performed by a water-cooling bath. Hice does disclose the cooling is performed by a water-cooling bath – see for example – at 100 and 102 in figure 2 and column 4 lines 60-66. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Gallant as modified by Ragnarsson et al. and Peterson et al. and add the water bath cooling means of Hice, so as to allow for temperature of the objects in the bath to be quickly reduced to facilitate further processing of the objects.

Response to Amendment

3. The affidavit under 37 CFR 1.132 filed 9-6-07 is insufficient to overcome the rejection of claims 1-8 and 10 based upon Gallant in view of Ragnarsson et al. and Peterson et al. as set forth in the last Office action because: applicant does not specifically disclose why the device of Gallant is incapable of being used on shrimp carrying eggs. Applicant only argues the difference between clams and shrimp but does not show how the device of Gallant could not perform well if it is used to process shrimp. Further, it is deemed that the Gallant reference discloses the peeling step in that the outer layer being the shell of the claim is removed. Further, the Peterson

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et al. reference discloses the device of Peterson et al. can be used in the fishing/shrimp industry as seen in column 12 lines 51-55. Further, since the device of Gallant is used on shellfish in particular mollusks such as clams it is deemed that one of ordinary skill in the art would be able come up with the predictable result of using the device of Gallant on other shellfish such as crustaceans/shrimp.

Response to Arguments

4. Regarding claim 1, applicant does not specifically disclose why the device of Gallant is incapable of being used on shrimp carrying eggs. Applicant only argues the difference between clams and shrimp but does not show how the device of Gallant could not perform well if it is used to process shrimp. Further, it is deemed that the Gallant reference discloses the peeling step in that the outer layer being the shell of the claim is removed. Further, since the device of Gallant is used on shellfish in particular mollusks such as clams it is deemed that one of ordinary skill in the art would be able come up with the predictable result of using the device of Gallant on other shellfish such as crustaceans/shrimp. Further, the Peterson et al. reference discloses the device of Peterson et al. can be used in the fishing/shrimp industry as seen in column 12 lines 51-55. Therefore since both the Gallant and Peterson et al. disclose devices of similar structure being a brine separation tank and similar function of removing unwanted materials from the edible material that it would have been obvious to one of ordinary skill in the art to combine these references given the motivation to combine these references stated above in paragraph 3 of this office action.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID PARSLEY
PRIMARY EXAMINER